

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

JOHN MANN ANDERSON,

Plaintiff,

v.

Case No. 22-C-270

CHERYL A. JEANPIERRE, et al.,

Defendants.

ORDER

Plaintiff John Mann Anderson is representing himself in this §1983 lawsuit. On September 22, 2022, Defendants filed a motion for partial summary judgment based on a failure to exhaust administrative remedies. Dkt. No. 46. On October 18, 2022, Plaintiff filed one comprehensive document, which he intended to serve as a response to Defendants' proposed findings of fact, an opposition brief, and a motion for sanctions. Dkt. No. 55. The following day, on October 19, 2022, Plaintiff filed a motion to compel. Dkt. No. 57. Then, on October 25, 2022, Plaintiff filed a motion for leave to amend his summary judgment response materials and motion for sanctions. Dkt. No. 59. Plaintiff explains that he misfiled his prior documents (Dkt. No. 55) and he seeks leave to amend to file them properly. *Id.* He also submitted proposed amended versions of the documents. *See* Dkt. No. 59-1; *see also* Dkt. Nos. 60-62.

The Court will grant the motion for leave to amend and will direct the Clerk's office to terminate Dkt. No. 55. Further, the Court will direct the Clerk's office to: (1) detach Dkt. No. 59-1 and file it as the operative Response to [48] Defendants' proposed findings of fact; (2) file Dkt. No. 60 as the operative Brief in Opposition to [47] Defendant's brief in support of the motion for

summary judgment; (3) file Dkt. No. 61 as the operative Motion for Sanctions; and (4) file Dkt. No. 62 as the operative Declarations in support of Plaintiff's summary judgment response materials. Defendants may file their reply to Plaintiff's summary judgment response materials within 14 days of this order.

On October 19, 2022, Plaintiff also filed a motion to compel discovery. Dkt. No. 57. He explains that he submitted discovery requests on August 12, 2022 and September 30, 2022, and Defendants still have not produced certain documents. *Id.*, ¶¶1-2, 7, 10-12. For other documents, Defendants objected to producing them on October 10, 2022, claiming that the documents are not relevant. *Id.*, ¶¶3-5. Plaintiff explains that the documents he seeks are relevant. *Id.*, ¶¶6, 8-9.

Civil Local Rule 37 provides,

"All motions to compel disclosure or discovery pursuant to Fed. R. Civ. P. 26 through 37 must be accompanied by a written certification by the movant that, after the movant in good faith has conferred or attempted to confer with the person or party failing to make disclosure or discovery in an effort to obtain it without court action, the parties are unable to reach an accord. The statement must recite the date and time of the conference or conferences and the names of all parties participating in the conference or conferences."

Plaintiff's motion to compel does not contain a written certification that he made a good faith attempt to confer with Defendants *after* they objected to his discovery requests on October 10, 2022 in order to resolve the discovery disputes. Plaintiff must do so before filing a motion to compel with the Court. Further, under the current scheduling order, Defendants have 60 days to respond to discovery requests. Dkt. No. 30, ¶1. Thus, Plaintiff's discovery requests from September 30, 2022 are not yet tardy. The Court will deny the motion to compel as premature.

IT IS THEREFORE ORDERED that Plaintiff's motion for leave to amend (Dkt. No. 59) is **GRANTED**; and the Clerk's office shall terminate Dkt. No. 55.

IT IS FURTHER ORDERED that the Clerk's office shall: (1) detach Dkt. No. 59-1 and file it as the operative Response to [48] Defendants' proposed findings of fact; (2) file Dkt. No. 60 as the operative Brief in Opposition to [47] Defendant's brief in support of the motion for summary judgment; (3) file Dkt. No. 61 as the operative Motion for Sanctions; and (4) file Dkt. No. 62 as the operative Declarations in support of Plaintiff's summary judgment response materials.

IT IS FURTHER ORDERED that Defendants may file their reply to Plaintiff's summary judgment response materials within **14 days of this order**.

IT IS FURTHER ORDERED that Plaintiff's motion to compel (Dkt. No. 57) is **DENIED** as premature.

Dated at Green Bay, Wisconsin this 31st day of October, 2022.

s/ William C. Griesbach

William C. Griesbach
United States District Judge